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| LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201 | | | EXAMINER DEMICO, MATTHEW R | |
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DATE MAILED: 07/09/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/465,529

Applicant(s)

OMOIGUI, NOSAKHARE D.

Examiner

Matthew R Demicco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Figure 11, Element 510. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 5, 8-12, 15, 18-22, 25-30, 32-37 and 40-54 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,177,931 to Alexander et al.

Regarding Claim 1, Alexander discloses a viewing management method for managing viewing of multiple live electronic presentations comprising an EPG (See Figure 1) enabled to use a viewer profile (Col. 29, Lines 14-21) to list programs or search for news programs that suit a viewer's interest (Col. 31, Lines 25-52). This reads on the claimed simultaneous monitoring of two or more electronic presentations that are

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concurrently broadcast, that is, all the programming available in the EPG. Alexander further teaches alerting a user about a future program that may be of interest and, based on their response, automatically tuning to the program at the appropriate time (Col. 14, Lines 58-67). This reads on the claimed automatically switching between displays of the two or more electronic presentations based upon viewer-defined preferences.

Regarding Claim 2, Alexander discloses a method as stated above in Claim 1 wherein the EPG determines if a specific program may be of interest and allows a user to decide whether they wish to view that specific program or not. It is inherent that such a specific program has a presentation title. This reads on the claimed viewer defined preferences being defined in terms of specific electronic presentation titles. Further, the user profile is based on the identification of programming a user chooses to view (Col. 28, Lines 30-52). This identification of programming reads on viewer-defined preferences.

Regarding Claim 5, see Claim 2 above.

Regarding Claim 8, Alexander discloses a method as stated above in Claim 1 wherein notification to a user comprises automatically changing the screen to a PIP format and displaying the notification at the same time as the real time programming (Col. 15, Lines 4-11). Alexander further discloses using the PIP window to allow the viewer to watch the current program while providing content of interest in the PIP window (Col. 31, Lines 9-24). This reads on the claimed enabling a PIP display for the viewer in which at least two of the electronic presentations are contemporaneously displayed for the viewer.

Regarding Claim 9, Alexander discloses a method as stated above in Claim 1 wherein the user's system is a computer-based system (Col. 5, Lines 20-46). It is inherent that such a computer be programmed with instructions in order to operate.

Regarding Claim 10, Alexander discloses a method as stated above in Claim 1 wherein the user system has RAM and ROM (Col. 5, Line 25). This memory reads on the claimed computer-readable media. It is inherent that such a computer be programmed with instructions in order to operate.

Regarding Claim 11, see Claim 1 above. Alexander discloses automatically notifying a viewer when one or more of the electronic presentations satisfy a viewer-defined preference (Col. 14, Lines 58-64).

Regarding Claims 12 and 15, see Claim 2 above.

Regarding Claim 18 and 19, see Claims 8 and 9 above.

Regarding Claim 20, Alexander discloses a programmable computer having instructions (See Above) which, when executed, implement a viewing management method (See Figure 1) for managing viewing of multiple live electronic presentations (television programming). Alexander further discloses a viewer profile analysis program running at the head end (Col. 29, Lines 14-34) that collects user preference data in the form of programming consumed (Col. 29, Lines 37-55). This "Profile Program" updates data on an ongoing basis (Col. 29, Lines 22-24). This reads on the claimed sending at least one viewer request to an encoder (Profile Program), the viewer request containing one or more viewer-defined preferences (programs watched, favorite genres, etc) that relate to one or more events that can occur in one or more electronic presentations

(content of the television programming). The encoder then evaluates the user's profile in order to determine programs that are likely to suit the viewer's interest (Col. 31, Lines 25-30). This reads on the claimed evaluating, with the encoder, one or more electronic presentations that are being broadcast to determine whether any of the viewer-defined preferences are satisfied and if so, notifying a viewer (as stated above) that is associated with the preference that was satisfied.

Regarding Claim 21, Alexander discloses a system as stated above in Claim 20 wherein the notifying comprises automatically displaying the electronic presentation as stated above in Claim 1.

Regarding Claim 22, Alexander discloses a system as stated above in Claim 20 wherein the notifying comprises displaying indicia for the viewer that is associated with the preference (Col. 14, Lines 58-64).

Regarding Claim 25, Alexander discloses a viewing management method for managing viewing of multiple live electronic presentations as stated above. Alexander further discloses a head end "encoder" operable to receive user profile information including channels/programming watched. This reads on the claimed receiving viewer requests from one or more viewers, the requests containing viewer-defined preferences that are used to evaluate a plurality of different live electronic presentations. Further disclosed is evaluating television programming based on the user profiles defined by the user's viewer preferences as stated above and notifying a viewer if a preference is satisfied as stated above.

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Regarding Claim 26, Alexander discloses a system as stated above in Claim 25, wherein the notifying comprises automatically displaying the electronic presentation that is associated with the viewer-defined preference as stated above.

Regarding Claim 27, Alexander discloses a system as stated above in Claim 25, wherein the notifying comprises displaying indicia of the electronic presentation that is associated with the viewer-defined preference as stated above.

Regarding Claim 28, see Claim 8 above. Alexander further discloses that one of the electronic presentations is associated with the viewer-defined preference that is satisfied (“auto surfing”, Col. 31, Lines 9-24).

Regarding Claim 29, Alexander discloses a system as stated above in Claim 25 wherein a “Profile Program” running at the head end receives the viewer requests and notifies the viewers as stated above. It is inherent that such a program must run on a computer in order to execute. This reads on the claimed server.

Regarding Claim 30, Alexander discloses a system as stated above in Claim 25 wherein the receiving is performed by a server that is programmed to receive the viewer requests, evaluate live electronic presentations and notify the viewers as stated above in Claim 20.

Regarding Claim 32, Alexander discloses a system as stated above in Claim 25 wherein the system is computer-based as stated above. It is inherent that the computers be programmed with instructions as stated above.

Regarding Claim 33, Alexander discloses a system as stated above in Claim 25 wherein the system is computer based and has computer-readable media with instructions thereon as stated above.

Regarding Claim 34, Alexander discloses a viewing management method for managing viewing of multiple live electronic presentations as stated above. Alexander further discloses the transmission of viewer profile information (viewer-defined preferences) to a head end as stated above. This reads on the claimed creation of a viewer request that contains one or more viewer-defined preferences for use in evaluating one or more live electronic presentations and sending the request to a computing device. The Profile Program in the head end evaluates the electronic presentations with the computing device in light of the viewer-defined preferences as stated above.

Regarding Claim 35, Alexander discloses a system as stated above in Claim 34 further comprising using the computing device to send notification to a viewer in the event that one or more electronic presentations satisfies one or more of the preferences as stated above.

Regarding Claim 36, Alexander discloses a system as stated above in Claim 34 further comprising automatically displaying an electronic presentation for a viewer in the event that the presentation satisfies the viewer-defined preferences as stated above.

Regarding Claim 37, see Claim 2 above.

Regarding Claim 40, Alexander discloses a system as stated above in Claim 34 wherein the system is computer-based and has computer-readable media having computer-readable instructions thereon as stated above.

Regarding Claim 41, Alexander discloses an interactive network comprising one or more client viewing devices (Col. 3, Lines 3-25) and a head-end for receiving user profile data as stated above. This head end reads on the claimed one or more computing devices communicatively linked with the one or more client viewing devices. The head end simultaneously monitors one or more electronic presentations that are concurrently broadcast and automatically sends a notification to one or more of the client viewing devices when one of the electronic presentations satisfies one or more viewer-defined preference that is defined by a viewer of the one or more client viewing devices as stated above.

Regarding Claim 42, Alexander discloses a system as stated above in Claim 41 wherein the client viewing devices are programmed to automatically display at least an indicia of an electronic presentation that satisfied one or more preferences upon receiving notification from the computing devices as stated above.

Regarding Claim 43, Alexander discloses a system as stated above in Claim 42 wherein the indicia comprises a display of the live electronic presentation as stated above.

Regarding Claim 44, Alexander discloses a viewing management method for managing viewing of multiple live electronic presentations as stated above. Alexander further teaches compiling a profile of the users to determine programming they are likely to want to view and notifying the users of these events as stated above. This reads on the claimed monitoring viewing habits of one or more viewers of live electronic presentations to determine particular events within the electronic presentation that the viewers are likely to want to view and based on the monitored habits, notifying one of the

users when it appears that an event is occurring within an electronic presentation that the viewer is not viewing but would likely want to view.

Regarding Claim 45, Alexander discloses a system as stated above in Claim 44 wherein the notifying comprises automatically displaying the event for a viewer as stated above.

Regarding Claim 46, Alexander discloses a system as stated above in Claim 45 wherein the notifying comprises automatically displaying indicia of the electronic presentation, and only displaying the presentation if the user chooses to accept the change in programming as stated above. This reads on not displaying the indicia but not the electronic presentation for a viewer.

Regarding Claim 47, Alexander discloses a system as stated above in Claim 44 wherein the notifying comprises automatically displaying the event in a PIP window on the viewer device as stated above.

Regarding Claim 48, Alexander discloses a system as stated above in Claim 44 wherein the monitoring comprises establishing a correlation between the time that a viewer views a particular electronic presentation and the events that transpire during that time (Col. 28, Lines 30-44).

Regarding Claim 49, Alexander discloses a system as stated above in Claim 48 wherein the establishing comprises evaluating viewer habits over a plurality of time frames during which the viewer is viewing one or more electronic presentations (Col. 29, Lines 22-30).

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Regarding Claim 50, Alexander discloses a system as stated above in Claim 44 wherein the system is a computer-based system with instructions executed on the computer as stated above.

Regarding Claim 51, Alexander discloses a system as stated above in Claim 44 further comprising computer-readable media having computer-readable instructions thereon as stated above.

Regarding Claim 52, Alexander discloses an interactive network comprising one or more client viewing devices and one or more computing devices communicatively linked with the client devices as stated above. Alexander further teaches monitoring the viewing habits of one or more viewers of live electronic presentations to determine particular events within the presentations that the viewers are likely to want to view and based upon the monitored habits, notifying the viewers when it appears that an event is occurring within an electronic presentation that the viewer is not viewing but would likely want to view as stated above.

Regarding Claim 53, Alexander discloses a system as stated above in Claim 52 wherein the viewing device is a television (Col. 3, Line 25).

Regarding Claim 54, Alexander discloses a system as stated above in Claim 52 wherein the client device comprises a cable box (Col. 3, Line 25). A cable box running an EPG as shown in Figure 1 is a computer-based device as is well known in the art. This reads on the claimed viewing device comprising a computer display.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-4, 13-14, 31 and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. in view of U.S. Patent No. 5,561,457 to Cragun et al.

Regarding Claims 3 and 4, Alexander discloses a method as stated above in Claim

1. What is not disclosed, however, is that the viewer-defined preferences are defined in terms of topics that can occur within electronic presentations. Cragun discloses a method of scanning text streams of programming for words and phrases that match user-specified keywords (See Abstract). These keywords are used to match programming and display items of interest on the viewer's monitor (Col. 16, Lines 28-42). Keywords can be used to locate topics or events that can occur within the electronic presentation. Cragun is evidence that ordinary workers in the art would recognize the benefits of locating specific words or combinations of words in a television broadcast. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Alexander with the keyword matching of Cragun in order to allow users to find programming not only by name or genre, but by specific content included in the program in order to obtain more accurate results.

Regarding Claim 13 and 14, see Claims 3 and 4 above.

Regarding Claim 31, Alexander discloses a system as stated above in Claim 25.

What is not disclosed, however, is receiving information describing the electronic presentations as they are being broadcast, receiving updated information as they are being broadcast, and evaluating all the information that is received in light of the viewer-defined preferences. Cragun discloses a system as stated above that continuously receives updated information regarding programming (Col. 2, Lines 58-60 and Cols. 11-12, Lines 65-14) from the closed captioning stream. The text is used to evaluate whether a user is interested in the programming. Cragun is evidence that ordinary workers in the art would recognize the benefits of continuously evaluating updated information to determine a program match. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Alexander with the continuously updating information of Cragun in order to locate specific segments of programming of interest to a user in a larger overall broadcast.

Regarding Claim 38, see Claim 4 above.

Regarding Claim 39, see Claim 4 above. Keywords could also be used to match topics that can occur in electronic presentations.

6. Claims 6-7, 16-17 and 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. in view of U.S. Patent No. 5,867,205 to Harrison.

Regarding Claim 6 and 7, Alexander discloses a method as stated above in Claim

1. What is not disclosed, however, is that the viewer-defined preferences are defined in terms of priorities that can be assigned to the two or more electronic presentations and

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events that can occur within the presentations. Harrison discloses a method for using a user profile to analyze programming (Col. 6, Lines 25-36) to determine if a channel contains information of interest to a user (Col. 4, Lines 6-8). Harrison further discloses assigning priorities to different search topics (See Figure 3) that can be assigned to two or more electronic presentations. Further, Harrison teaches assigning priorities to events that can occur within two or more electronic presentations by specifying multiple triggers with different priorities for the same channel (See Figure 3). Harrison is evidence that ordinary workers in the art would recognize the benefits of assigning priorities to programming or events within the programming in a profile-based program location system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Alexander with the priorities of Harrison in order to locate items of the most interest to a user when there are multiple items of interest.

Regarding Claims 16 and 17, see Claims 6 and 7 above.

Regarding Claim 55, Alexander disclose a user interface for use in an interactive entertainment system comprising a processor as stated above and an application executing on the processor configured to present a plurality of fields, one of which displays a number of titles of programs that can be selected by a viewer (See Figure 1). Further disclosed is an input device operable to enable a user to select a particular electronic presentation for continuous play viewing (Col. 3, Line 23). What is not disclosed, however, is another plurality of fields for displaying indicia that can be selected to define viewer preferences for simultaneously monitoring two or more of the

programs that are selected by the viewer. Harrison discloses a system as stated above wherein a user interface is presented with a plurality of fields for displaying indicia that can be selected to define viewer preferences (See Figure 3) for monitoring two or more programs (Col. 5, Lines 53-65). Harrison is evidence that ordinary workers in the art would recognize the benefits of allowing a user to input preferences for finding desirable programming. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Alexander with the user preferences of Harrison in order to allow a user to explicitly define the programming they are looking for.

Regarding Claim 56, Alexander in view of Harrison disclose a system as stated above in Claim 55. Harrison further discloses that the indicia is associated with predefined aspects of the programs, for example, the channel the program appears on (See Figure 3).

Regarding Claim 57, Alexander in view of Harrison disclose a system as stated above in Claim 55. Harrison further discloses that the indicia is associated with viewer-definable aspects of the programs such as key-word triggers (See Figure 3).

7. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al.

Regarding Claim 23, Alexander discloses a system as stated above in Claim 20. Alexander discloses a head end system with a Profile Program for receiving profile data and processing it. Further, it is inherent in such a television system that there be multiple

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different viewers and that the head end would maintain separate profiles for the different viewers.. What is not disclosed, however, is receiving viewer requests with a server and sending the requests from the server to the encoder. Official Notice is hereby taken that it is well known in the art to use a server to communicate with multiple computer-based clients. It would be obvious to use a server as a “middleman” for collecting data from each user and forwarding it to the Profile Program. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Alexander with the server of the well-known prior art in order to offload the tasks of communicating with each client terminal to a separate machine independent of the “encoder” in order to free up I/O and processor resources for the analyzing of viewer profile data.

Regarding Claim 24, Alexander discloses a system as stated above in Claim 23. In a system such as the one stated above with a server acting as a middleman between the client and the encoder, it is inherent that any data, program recommendations for instance, would have to pass through the server in order to reach the client. This reads on the claimed sending a notification from the encoder to the server, receiving it and sending it from the server to the viewer.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- a. U.S. Patent No. 5,444,499 to Saitoh discloses a television receiver that outputs advice to a user who might otherwise miss a favorite program using user profile data.
- b. U.S. Patent No. 5,410,344 to Graves et al. discloses a system for storing a user profile and allows a user to enter programming preferences in order to narrow down program selections.
- c. U.S. Patent No. 6,353,444 to Katta et al. discloses a system for creating a user profile and prompting a user to view recommended programming based on various aspects of the program.
- d. U.S. Patent No. 5,977,964 to Williams et al. discloses a system that generates a user profile and scans programming information to find programs of interest to the user where the database may be located on a remote server. Further, a user may train the system with direct input of options such as channels, genres, etc. The system alerts the user with an interactive pop-up window of programming suggestions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew R Demicco whose telephone number is (703) 305-8155.

The examiner can normally be reached on Mon-Fri, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



mrd

June 16, 2004



VIVEK SRIVASTAVA
PRIMARY EXAMINER